



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 8, 2004

Ms. Julie Joe
Assistant County Attorney
Travis County
P. O. Box 1748
Austin, Texas 78767

OR2004-8541

Dear Ms. Joe:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 210925.

The Travis County Juvenile Probation Department (the "department") received a request for a specified investigation report. You claim that the requested information is not subject to the Public Information Act (the "Act"). In the alternative, you claim that the requested information is excepted from disclosure pursuant to section 552.101 of the Government Code. We have considered your arguments and have reviewed the submitted information.

Section 552.003 of the Government Code provides that for purposes of the Act, the term "governmental body" does not include the judiciary. *See* Gov't Code § 552.003. The purposes and limits of the judiciary exception were construed in *Benavides v. Lee*, 665 S.W.2d 151 (Tex. App.—San Antonio 1983, no writ). The court held that the Webb County Juvenile Board was not part of the judiciary for purposes of the Act, despite the fact that the board consisted of members of the judiciary and the county judge. In *Benavides v. Lee*, the court explained the purpose of the judiciary exception:

The judiciary exception . . . is important to safeguard judicial proceedings and maintain the independence of the judicial branch of government, preserving statutory and case law already governing access to judicial records. But it must not be extended to every governmental entity having any connection with the judiciary.

Id. at 152. Thus, in order to fall within the judiciary exception, the information at issue must contain information pertaining to judicial proceedings. *See* Open Records Decision Nos. 527

(1989) (Court Reporters Certification Board not part of judiciary because its records do not pertain to judicial proceedings), 204 (1978) (information held by county judge that does not pertain to proceedings before county court subject to Act). You inform us that the submitted information was prepared by the department and pertains to the supervision by the department of a juvenile who was ordered by a court to receive treatment at and under the direct supervision of the department. You also state that this information is, thus, collected, assembled, and maintained by the department on behalf of the judiciary. Based on your representations and our review of the submitted information, we, therefore, agree that the submitted information constitutes records of the judiciary that are not subject to the Act. Accordingly, we conclude that the submitted information need not be provided to the requestor in response to this ruling.¹

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at (877) 673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

¹ Because we determine that the submitted information is not subject to the Act, we need not address your claimed exception to disclosure.

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Texas Building and Procurement Commission at (512) 475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. We note that a third party may challenge this ruling by filing suit seeking to withhold information from a requestor. Gov't Code § 552.325. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Ronald J. Bounds
Assistant Attorney General
Open Records Division

RJB/krl

Ref: ID# 210925

Enc. Submitted documents

c: Ms. Tina Alegria
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Austin, Texas 78744
(w/o enclosures)